

For further information contact
Senate Subcommittee on Constitutional Rights
225-8191

FOR RELEASE MONDAY, March 15, 1971

ERVIN RELEASES LETTERS ON SENATE PRIVACY HEARINGS

Washington, D.C., March 15, 1971 -- U.S. Senator Sam J. Ervin, Jr. (D-N.C.) Chairman of the Senate Constitutional Rights Subcommittee, today released the texts of letters he has sent to Department of Defense officials asking that they permit public appearances and testimony of the Generals and other Defense personnel responsible for implementing the Department's program for surveillance of civilians and computerizing their files. He also disclosed the March 9 reply indicating the Department's reluctance to permit the appearances.

"Although the Department of Defense has been cooperative in providing information, there are many gaps in the record which can only be filled by the testimony of those who actually participated in the operation of the program. It is essential, for instance, that the people of the United States know how widespread this surveillance has been, how many churches, how many preachers, how many students, colleges, institutions and law-abiding members of society have been monitored and made subjects of dossiers.

"We hope that the civilian officials in the Department of Defense will permit the appearance of the military officers and others responsible for carrying out this program.

"We would not want the public image of the Army to be harmed in any way by this controversy, for our national survival may someday depend on the strength, ability and effectiveness of the Army. For this reason, I believe no questions should be left unanswered by those who had actual knowledge of the civil disturbance program. It can only serve the Army's purpose of maintaining its image untarnished to have these individuals appear before the Subcommittee and make a full disclosure to the American people about what occurred during the years in question.

"As I stated in my letter to Secretary of Defense Laird of March 12:

"I believe that if these gentlemen are permitted to testify, we can demonstrate to the American citizen beyond question that any lingering doubts he might have about the issues under investigation are without foundation. I am certain you agree with me that it is important that the Congress and the Defense Department not give any citizen any reason to believe that the full story about surveillance of civilians has not yet been told. I firmly believe that the appearance of these gentlemen at a full public hearing will go far towards achieving this important goal."

In six letters released today, the Subcommittee asked for testimony of knowledgeable Defense Department personnel and representatives of each of the services who knew about the program. The exchange began with a July 27, 1970 letter inviting the Secretary of the Army to testify and includes three letters from the Subcommittee Chairman to Secretary of Defense Laird, one to Assistant Secretary of Defense Froehke, and one to the General Counsel of the Defense Department.

(The texts of the letters are attached.)

Subcommittee on Constitutional Rights

March 12, 1971

Honorable Melvin R. Laird
Secretary of Defense
Washington, D. C.

Dear Mr. Secretary:

Thank you for your response, through General Counsel Buzhardt, in reply to my letter of March 4 repeating my request that Generals McChristian, Yarborough and Blakefield appear before the Subcommittee to testify.

As I have often expressed both publicly and privately, the Subcommittee appreciates the fine spirit of cooperation which the Department has demonstrated during the course of our inquiry. There is no question but that you and the Department have rendered a fine public service by the way in which this matter has been approached. Mr. Froehlke's statement was extremely helpful and served to clear up many questions the Subcommittee and the public had with respect to the events of the past few years. Although I have not yet had an opportunity to study in detail the new rules promulgated by the Department for future domestic intelligence, it is apparent that you and the other members of the Department have made a commendable effort to rectify the abuses of the past and to prevent their reoccurrence.

Despite the great progress which has been made thus far, there still remain some important matters which must be cleared up. Chief among the issues is the question of the extent to which the intelligence-gathering was ordered or approved by higher civilian authority. It is also necessary to determine the extent and level of civilian knowledge of these activities during various times throughout the period in question.

Mr. Froehlke's testimony was very helpful in these matters. However, the Subcommittee has had no direct, positive evidence from those in a position to know the facts. As Mr. Froehlke pointed out so well, the evidence on this difficult point must be reconstructed from the memories of those who participated. He, of course, like yourself, was not in office at the time and he was given formal and direct responsibility for these matters only recently.

The Subcommittee has not thus far been given access to the memoranda, notes, chronologies and other documents upon which Mr. Froehlke's statements were based or to which he referred. These are matters which can only be clarified by the appearance of those in the military service who were direct participants in these operations or who were immediately responsible for the implementation of the programs.

One very serious question, which only such individuals can assist in answering, concerns the effectiveness of the intelligence operations and their usefulness in helping the Army, the Department of Justice, and state and local officers in meeting their responsibilities when they were called upon to put down civil disorders. We have not as yet received an assessment of this activity from the experts who are in position to inform the Subcommittee and the American people. Only direct, positive testimony from officers whose business it is to provide useful intelligence can give us this evaluation.

There are other points upon which their testimony will be helpful. We wish to learn, for instance, how many agents were employed in domestic intelligence work, what their geographic areas of responsibility were, how many meetings, speeches, campuses, and other activities were covered, and other such information.

I am very mindful of the sensitivity of testimony which might conceivably be presented by these generals. As a former judge and as one who has long been striving for the finest possible systems of military and civilian justice, I am most cautious lest any public testimony prejudice prosecutions which may develop out of this inquiry. However, it is difficult to determine from the current state of Subcommittee knowledge how any testimony we might desire from these gentlemen could in any way be involved in a future trial. For this reason, I believe it would be helpful if you would inform me, in detail, of the nature of the possible prosecutions, the persons involved, the substance of the allegations and the particulars of the statutes and regulations that may have been violated. I realize that you are in an early stage of determining whether there occurred any violations subject to court-martial proceedings. However, as is evident from the testimony and Mr. Buzhardt's letter, this is more than a hypothetical possibility.

Honorable Melvin R. Laird
March 12, 1971
Page Two

The Subcommittee wishes to avoid any possibility of prejudicing in any way the future rights of any person who may be subject to court-martial. I will certainly inform other members of the Subcommittee of the possible difficulty and encourage each of them to exercise great care during the conduct of the hearing. Since each member of this Subcommittee is a lawyer and each has been involved in the Subcommittee's prior efforts to ensure that every soldier is protected by the finest system of justice possible, I have every confidence that the fears expressed in Mr. Buzhardt's letter can easily be avoided.

I believe that if these gentlemen are permitted to testify, we can demonstrate to the American citizen beyond question that any lingering doubts he might have about the issues under investigation are without foundation. I am certain you agree with me that it is important that the Congress and the Defense Department not give any citizen any reason to believe that the full story about surveillance of civilians has not yet been told. I firmly believe that the appearance of these gentlemen at a full public hearing will go far towards achieving this important goal.

Once again, I want you to know of my appreciation for the fine cooperation which you have shown thus far in our inquiry.

With kindest wishes,

Sincerely yours,

Sam J. Ervin, Jr.
Chairman

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

9 March 1971

Honorable Sam J. Ervin, Jr.
Chairman, Subcommittee on Constitutional Rights
Committee on the Judiciary
United States Senate
Washington, D. C.

Dear Senator Ervin:

The Secretary asked that I reply to your letter of March 4 with reference to additional witnesses from the Army for your Subcommittee on Constitutional Rights.

It comes as a surprise that you feel that Secretary Froehlke left some of your questions unanswered in his appearance on March 2 before your Subcommittee. A review of the transcript revealed but one request by your Subcommittee for information to be submitted for the record. The material requested was for the organization and manning of the Army Intelligence Command and this material is being compiled for submission.

Assistant Secretary Froehlke remains available as a witness to provide any additional information your Subcommittee requires. Mr. Jordan, General Counsel of the Army, will be available to accompany him.

As Mr. Froehlke advised the Subcommittee during his testimony, formal investigations are in progress in connection with the activities of two organizational units of the Army. It is quite possible that any one of perhaps all three of the general officers, whom you requested to appear before your Subcommittee on March 17, could be material witnesses in formal proceedings which might grow out of the current investigations. I am sure you will agree, that in order to protect the due process rights of any persons who might be the subject of criminal or administrative charges as a result of the current investigations, it would be inappropriate for Generals McChristian, Blakefield and Yarborough to testify before your Subcommittee on this subject at this time.

Page two of March 9, 1971 letter to Senator Ervin from Mr. J. Buzhardt

As I am sure you are aware, both General Blakefield and General Yaborough are presently assigned to command positions of heavy responsibility outside the continental limits of the United States.

Please be assured that the Department continues to stand ready to provide to the fullest extent possible such additional information as you and your Subcommittee need for the compilation of these legislative hearings.

Sincerely yours,

J. Fred Buzhardt

Subcommittee on Constitutional Rights

March 4, 1971

Honorable Melvin R. Laird
Secretary of Defense
Washington, D. C.

Dear Mr. Secretary:

On February 18, 1971, I addressed a letter to Assistant Secretary Froehlke requesting that he make available certain persons in the Department for possible questioning at the Subcommittee hearing on March 2. To date he has not answered my letter directly, but he did instruct Mr. J. Fred Buzhardt, the General Counsel, to inform me that the Department was reluctant to make them available.

It has become obvious that the Subcommittee's inquiry into recent activity by military intelligence organizations -- activity which you ended in your directive of March 1 -- cannot be concluded satisfactorily unless certain of the persons called for in my previous letter appear before the Subcommittee. While the testimony presented by Mr. Froehlke answers many of the Subcommittee's questions, it opened other important lines of inquiry which the Subcommittee must pursue, and left others unsatisfactorily unanswered.

For these reasons, I would like to request formally, on behalf of the Subcommittee, that the following persons appear before the Subcommittee;

Major General Joseph A. McChristian, Assistant Chief of Staff for Intelligence
Major General William H. Blakefield, former Commanding General, U.S.
Army Intelligence Command
Major General William P. Yarborough, former Assistant Chief of Staff for
Intelligence

In addition, I would like to ask that Mr. Jordan, General Counsel of the Army, also return at that time.

Since I understand that General Blakefield has returned from Korea in anticipation of his appearance, it would be best that the witnesses appear in the near future. Accordingly, their testimony has been scheduled for Wednesday, March 17, 1971, at 10:00 a.m.

With kindest wishes,

Sincerely yours,

Sam J. Ervin, Jr.
Chairman

Subcommittee on Constitutional Rights

February 25, 1971

Mr. J. Fred Buzhardt
General Counsel
Department of Defense
Washington, D. C.

Dear Mr. Buzhardt:

Some time ago, Mr. Baskir requested that you make available to the Subcommittee the transcript of the board of inquiry appointed by Secretary Resor to investigate the allegations made against the 113th Military Intelligence Unit. It is my understanding that you agreed to do so but that subsequently you informed him "certain difficulties" had arisen which you were trying to resolve.

I would like to request that you have this material delivered to the Subcommittee staff by Friday for their use in preparing the Subcommittee members for the testimony to be presented by the Department on Tuesday.

I would also like to renew my request that you have available on that day the witnesses that I requested in my letter of February 17 18, 1971.

With kindest wishes,

Sincerely yours,

Sam J. Ervin, Jr.
Chairman

Subcommittee on Constitutional Rights

February 18, 1971

Honorable Robert F. Froehlke
Assistant Secretary of Defense
Washington, D. C.

Dear Mr. Froehlke:

Although you and Mr. Buzhardt will be the main witnesses from the Department of Defense at the Subcommittee hearings on Tuesday, March 2, I should like to request that the following persons also be present that day for possible testimony before the Subcommittee:

Colonel John W. Downie, Director of Counterintelligence, OACSI
Major General Joseph A. McChristian, ASCI
William L. Parkinson, Deputy Chief, CIAD
Stanley R. Resor, Secretary of Army
Robert E. Jordan, III, General Counsel, Department of Army
General William H. Blakefield, former CG, USAINTC
Bland West, Deputy General Counsel, Department of Army
Major General William P. Yarborough, former ACSI
Lt. Col. William Mann, Jr., Chief, Civil Disturbance Branch, OACSI

I would like to reiterate my request that the classified materials you have sent the Subcommittee be declassified. This is particularly important with respect to the material I received on February 10. Because so many of these materials are now obsolete and have been superseded by subsequent Department of Defense guidelines, I see no purpose in maintaining the security classification on them.

Thank you very much for your cooperation and I look forward to hearing your testimony.

With kindest wishes,

Sincerely yours,

Sam J. Ervin, Jr.
Chairman

Subcommittee on Constitutional Rights
September 10, 1970

Honorable Stanley R. Resor
Secretary of the Army
Washington, D. C.

Dear Mr. Secretary:

This is in continuation of my letter of July 27 inviting you to appear before the Constitutional Rights Subcommittee to describe various information programs and data systems operated by the Department of the Army. Since the Subcommittee has now scheduled its hearings on Computers, Data Banks, and the Bill of Rights for October 6, 7 and 8, this is to confirm our invitation to you to present your testimony on Wednesday morning, October 7, at 10:30 a.m. in Room 2228 of the New Senate Office Building.

In addition to answering the questions raised in my letter of July 27, it would be helpful if your statement reviewed the origin, development, and purpose of the civil disturbance program. As our inquiry indicated, we are also interested in knowing of the other data programs or systems which the Army conducts or administers which involve taking note of civilians who have no dealings with the Department of the Army and are not presently employed by it. This would include programs involving labor-management, race relations and civil rights, internal security, counter-subversion, and resistance in the Army.

Considerable public attention has been focused on the data bank of seven million Defense Department files which the Army maintains at its Investigative Records Repository. Although this has been discussed to some extent in correspondence, it would be valuable to receive a description of that data program for the hearing record including its components, the statutory and administrative authority governing it, and any physical safeguards featured in the automated electronic processing and storage equipment. Of course, primary interest for our purposes is centered on the legal and administrative safeguards to protect the due process rights of the individual placed in a government data bank, and these areas of interest were spelled out in the Subcommittee's inquiry to you of January 22.

If it is feasible, you may wish to devote a portion of your statement to a summary of the Army Department's response to the Subcommittee's general questionnaire to the Secretary of Defense concerning all automated data systems on individuals, civilians and military, who are employed by or who have official relationships with the Defense Department.

Enclosed are Congressional Record excerpts indicating the scope of the Subcommittee's study and the focus of this first set of hearings.

Your assistance in our study is deeply appreciated.

Sincerely yours,

Sam J. Ervin, Jr.
Chairman

Enclosures

Subcommittee on Constitutional Rights
September 10, 1970

Honorable Melvin J. Laird
Secretary of Defense
Washington, D. C.

Dear Mr. Secretary:

The Constitutional Rights Subcommittee has scheduled hearings on October 6, 7 and 8 to consider constitutional issues presented by computers, data banks and automated information systems. Since one of the major policies of recent concern to the public has been the Department of the Army's program for collection and storage of information on civilians active in politics, we have invited the Secretary of the Army to appear and discuss the due process procedures surrounding the Army's civil disturbance program as well as other data systems, whether automated or not, for monitoring citizens who have no past or present affiliations and no formal relationship with the Defense Department.

As you recall, this was one of the special areas of inquiry covered in the Subcommittee July 20, 1970, questionnaire to the entire Defense Department covering computers and automated data programs. The first part of that questionnaire was directed not only at the various civil disturbance programs, but note-taking of civilian activities in connection with problems and programs involving labor-management race relations and civil rights, counter-subversion and programs for prevention of sedition and mutiny in the armed forces. As an example, there was cited in the letter an Air Force memorandum on "reporting subversive activities" which ordered the reporting of persons engaged in such activities as "remarks with racial overtones."

Since it would be useful and appropriate to have the policies of all of the armed services and the Office of the Secretary of Defense on these matters summarized for the record of our hearings, this is to invite the testimony or views of you or appropriate officials of the Defense Department. Such testimony might reflect, in briefer form, the information supplied in response to the Subcommittee questionnaire, including a summary of your major manual or automated data systems on "unaffiliated" civilians as described above, the authority for each program or system; plans for automation or electronic storage of records on individuals; and the due process guarantees and safeguards.

Secondly, the statement might describe generally how the Defense Department uses computers for acquisition and storage of information on individuals who are employed or who have some connection with the Defense Department component agencies and services, the major automated or computerized data banks on military and civilian personnel and the statutory authorities and legal and physical safeguards governing their use generally. You or your representatives might then wish to comment on the advisability or feasibility of new legislative controls governing maintenance of automated records systems.

If this format is agreeable to you, the time and date of such testimony can be arranged at a mutually acceptable time.

Enclosed are excerpts from the Congressional Record which indicate the scope of the Subcommittee's interest.

Your assistance and that of your staff in the Subcommittee's study is deeply appreciated.

With all kind wishes, I am

Sincerely yours,

Sam J. Ervin, Jr.
Chairman

Encls.

July 27, 1970

Honorable Stanley R. Resor
Secretary of the Army
Washington, D. C.

Dear Mr. Secretary:

This is to thank you for sending me the policy letter from the acting adjutant general to all Army commanders concerning collection of civil disturbance information. You are to be commended for this thoughtful attempt to define the Army's role in the federal government's collection of information on individuals engaged in political activity or the surveillance of organizations which are politically active and whose members allegedly might be involved in civil disturbances.

I understand that you have decided that under no circumstances will the Army "acquire, report, process, or store civil disturbance information on civilian individuals or organizations whose activities cannot, in a reasonably direct manner, be related to a distinct threat of civil disturbance exceeding the law enforcement capabilities of local and state authorities, except as authorized in paragraphs 8 and 9 (d). These exceptions in paragraph 8 refer to "listings of local, state and federal officials whose duties include responsibilities related to control of civil disturbances" and "appropriate data on vital public and commercial installations, facilities or private businesses and facilities which are attractive targets for persons or groups engaged in civil disorders."

In paragraph 9 (d), this exception relates to "after-action reports, where required for clarity, which may contain names of individuals or organizations that were directly involved in the civil disturbance being reported." Furthermore, in paragraph 10, it is stated that "the collection, reporting, processing, and storage of information related to Army personnel security programs, counterintelligence operations, and special collection requirements related to direct threats to Army personnel, installations, or material are not affected by this letter."

The Army's definition of civil disturbance is a "situation in which a civil jurisdiction is required to apply a greater than usual degree of law enforcement to maintain law and order." This, it might be presumed, could include the assignment of one more police officer than usual when there is a football game in a town. To clarify this, we should appreciate receiving a specific description of the criteria which would determine exactly when the Army would engage in surveillance and data collection.

You state that the Army (1) will rely upon the Department of Justice to furnish civil disturbance threat information required to support Army planning for military civil disturbance needs; (2) that covert agent operations will not be used to obtain civil disturbance information on individuals or organizations without the concurrence of the Federal Bureau of Investigation; (3) that Army elements will be prepared on Army order, to destroy accumulated files or forward them for release to the Department of Justice.

From an initial reading of these and other items in your policy letter, it appears that the Army has finally persuaded the Department of Justice to assume certain surveillance and certain data-collection which the Army has been performing of civilians and to share responsibility with the Army for the total program.

However, I confess that the exceptions, qualifications and lack of criteria in your policy letter could lead the average citizen -- which I consider myself -- to wonder just how much of a change it represents in government policy.

Since I was never able to obtain a precise statement from you as to what exactly the Army had been doing and why, it is difficult to determine from this regulation just what you will not be doing in the future. In view of this initial difficulty in evaluating the Army's role, it is even more difficult to determine how many of the old activities have been eliminated, how many are merely shared with other agencies, and how many are completely assumed by other agencies.

Page two, Ltr. to Hon. Stanley R. Resor, dated July 27, 1970

The Subcommittee plans to conduct hearings in the fall to consider the extent to which constitutional rights are affected by government data banks, including those developed for surveillance and intelligence sources. In view of the constitutional issues raised by the Army's original activities, and in view of the questions still remaining, it would be most helpful to Congress if you were to appear before the Subcommittee and describe the differences between your old program and the new, both with respect to the Army's function and the total program of the Federal Government with respect to data collecting on civilian activities.

This is to extend to you as Secretary of the Army, an invitation to appear on a mutually agreeable date and discuss these matters. In particular, we would hope that you would tell us how the new policy will better protect the privacy and due process rights of (1) any citizen engaged in legal activities who might have been subject to surveillance or to incorporation in a federal data bank under the old policy, or (2) who might be so monitored in the future.

Pending the hearings, it would be helpful if you would supply the responses to the following questions:

1. When will your policy letter be published as an official regulation so that it will be available to the public and may be relied upon by citizens and organizations?
2. To what extent may the average citizen or student who engages in legitimate demonstrations, or who is politically active in expressing his views on issues of the day, or who belongs to organizations which demonstrate a concern with governmental policies -- to what extent may such a citizen or student benefit from the change of policy reflected in this new order? Under what circumstances could he expect to be subject to the Army or any other agency taking note of his activities?
3. What disposition has been made of the data in files, microfilms, and computer systems previously acquired on civilians in the course of this program, and maintained in base and unit offices and in local, regional or national offices?
 - (a) Has any of this information been transferred to or made available to any other federal, state or local agencies?
 - (b) If so, which ones?
 - (c) For what purposes?
 - (d) Beyond dissemination of Colonel Lynch's letter, what steps does the Department of the Army intend to take to ascertain that the regional data banks on civilian political activity maintained by military intelligence groups and elements of the Continental Army Command have in fact been destroyed?
4. You indicate that covert agent operations will not be used to obtain civil disturbance information on individuals or organizations without the concurrence of the Federal Bureau of Investigation.
 - (a) Why has the Army decided not to rely on the FBI entirely for such covert operations?
 - (b) Will covert operations be used for any other program affecting civilians? If so, which ones?
 - (c) Will the recommendation for such civil disturbance-related covert operations initiate with the Federal Bureau of Investigation?
 - (d) Would you provide examples of the type of incident or activity which might in your view call for such a covert operation?
 - (e) Who under this new arrangement would be responsible for terminating the operation?
 - (f) Would the order for such surveillance include a time limit or require a renewal of authority for continuance?

(g) Will Army intelligence agents or any other Army or Defense Department personnel be utilized under any arrangement to assist the Justice Department in implementing its share of this program?

5. What kinds of overt and covert collection operations can be undertaken by Army intelligence units to investigate "direct threats to Army personnel, installations, or material?" In instances not involving the crimes of treason, espionage, sabotage, or sedition? Who may authorize the collection of information in these cases?

6. It would appear to me that rule 10 exempts from any restrictions any program under the sun for monitoring of civilians which is not termed a "civil disturbance" program? Aside from the civil disturbance program, what other programs might in any way involve systematic collection of information by the Army about civilians other than those investigated for employment by or service with the Defense Department or Defense industries?

For example, would the monitoring of these personnel and civilians patronizing coffee houses and other businesses in communities near defense facilities fall under a program related to civil disturbance threats, or under some other program?

For instance, under your security program, does the Department of the Army have a program similar to that authorized by the Air Force Order of May 25, 1970, "Reporting Subversive Activities" by which personnel are ordered, supposedly in connection with civil disturbance threat preparations, to report "personnel making sympathetic statements in support of the antiwar demonstrators; "congregation of unauthorized persons;" "persons attempting to spread antiwar sentiments in public places on the base;" "persons making statements with racial overtones." If so, would you supply the Subcommittee with a copy of your directives, memoranda, or regulations?

As an additional example, it has been reported to the Subcommittee that the 902 Military Intelligence Detachment at Fort Meyer investigates and maintains dossiers on members of Congress, ambassadors, their staffs, business and labor leaders and congressional lobbyists. Would you advise the Subcommittee whether such a data bank is maintained, by whom and for what purpose?

7. (a) Which military intelligence unit will analyze "early warning" information from the Justice Department and thereby assist the Director of Civil Disturbance Planning and Operations in determining whether a "distinct threat of civil disturbance" exists?

(b) What permanent files, if any, will that unit maintain on past civil disturbances and/or the political activities of civilians?

8. Under rule 4e (1), what methods of "overt collection, other than liaison" are contemplated?

9. Under the new policy, will the domestic intelligence portions of the microfilm archive maintained by the Counterintelligence Analysis Detachment be retained? Will any portion of this data bank be destroyed? If so, which?

10. Paragraph 8 of Colonel Lynch's letter states: "civil disturbance plans and supporting materials will not include listings of organizations and personalities not affiliated with the Department of Defense." Will civil disturbance plans and supporting materials be permitted to include information on organizations and personalities not affiliated with the Department of Defense so long as that information is not presented in lists?

It would be appreciated if you would also supply as soon as possible the regulations implementing the program as spelled out in the policy letter and a copy of any inter-departmental memorandum or joint-agreement governing the working relationship between the Department of the Army and the Justice Department, and between the Department of the Army and any other agency or department with respect to the collection, processing, and storing of data on civilians.

Page 4, Ltr. to Hon. Stanley R. Resor, dated July 27, 1970

To judge from the mail which is coming to this Subcommittee, to my own office, and to most members of Congress on the subject of data banks, and particularly on those maintained by the Army under current programs, there is intense public concern about this subject. Furthermore, the many expressions of interest and alarm which I and the Subcommittee have received from other members of Congress, convince me that there is urgent need for public hearings to clarify the impact of the Army data banks and those of numerous other agencies on the constitutional rights of law abiding American citizens.

With all kind wishes, I am

Sincerely yours,

SJE:mme

/s/ Sam J. Ervin, Jr.
Chairman, Subcommittee on
Constitutional Rights

Page Two, Ltr. to Hon. Stanley R. Resor, dated July 27, 1970

The Subcommittee plans to conduct hearings in the fall to consider the extent to which constitutional rights are affected by government data banks, including those developed for surveillance and intelligence sources. In view of the constitutional issues raised by the Army's original activities, and in view of the questions still remaining, it would be most helpful to Congress if you were to appear before the Subcommittee and describe the differences between your old program and the new, both with respect to the Army's function and the total program of the Federal Government with respect to data collecting on civilian activities.

This is to extend to you as Secretary of the Army, an invitation to appear on a mutually agreeable date and discuss these matters. In particular, we would hope that you would tell us how the new policy will better protect the privacy and due process rights of (1) any citizen engaged in legal activities who might have been subject to surveillance or to incorporation in a federal data bank under the old policy, or (2) who might be so monitored in the future.

Pending the hearings, it would be helpful if you would supply the responses to the following questions:

1. When will your policy letter be published as an official regulation so that it will be available to the public and may be relied upon by citizens and organizations?

2. To what extent may the average citizen or student who engages in legitimate demonstrations, or who is politically active in expressing his views on issues of the day, or who belongs to organizations which demonstrate a concern with governmental policies -- to what extent may such a citizen or student benefit from the change of policy reflected in this new order? Under what circumstances could he expect to be subject to the Army or any other agency taking note of his activities?

3. What disposition has been made of the data in files, microfilms, and computer systems previously acquired on civilians in the course of this program, and maintained in base and unit offices and in local, regional or national offices?

(a) Has any of this information been transferred to or made available to any other federal, state or local agencies?

(b) If so, which ones?

(c) For what purposes?

(d) Beyond dissemination of Colonel Lynch's letter, what steps does the Department of the Army intend to take to ascertain that the regional data banks on civilian political activity maintained by military intelligence groups and elements of the Continental Army Command have in fact been destroyed?

4. You indicate that covert agent operations will not be used to obtain civil disturbance information on individuals or organizations without the concurrence of the Federal Bureau of Investigation.

(a) Why has the Army decided not to rely on the FBI entirely for such covert operations?

(b) Will covert operations be used for any other program affecting civilians? If so, which ones?

(c) Will the recommendation for such civil disturbance-related covert operations initiate with the Federal Bureau of Investigation?

(d) Would you provide examples of the type of incident or activity which might in your view call for such a covert operation?

(e) Who under this new arrangement would be responsible for terminating the operation?

(f) Would the order for such surveillance include a time limit or require a renewal of authority for continuance?